

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

18371

P.L. II
Eisen

FILE: B-202164.2

DATE: June 8, 1981

MATTER OF: International Business Investments

DIGEST:

1. Where fifth low bidder protests that bids of first, second and third low bidders should be rejected, since fourth low bidder would be in line for award if protest is upheld, fifth low bidder does not have requisite direct and substantial interest with regard to award to be regarded as "interested party" under Bid Protest Procedures.
2. Allegation of below cost bid provides no basis upon which award may be challenged and GAO does not review affirmative determinations of responsibility absent circumstances not present here.

International Business Investments (IBI) protests the award of a contract to any firm other than itself under IFB N62467-81-B-4016 issued by the Naval Weapons Station, Charleston, South Carolina, for escort guard services. IBI, the fifth lowest bidder, contends that the low bid should be rejected because it is so low that the bidder will not be able to meet its cost and because that firm is represented by an individual on the "debarred and suspended bidders list." The protester also contends that the second low bid should be rejected because it is too low and that the third low bid should be rejected because that bidder was defaulted on a prior contract for these same services.

IBI is not eligible to maintain this protest. A party must be "interested" under our Bid Protest Procedures, 4 C.F.R. § 20.1(a) (1980), in order to have its protest considered by our Office. Determining whether a party is sufficiently interested involves consideration

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of the party's status in relation to the procurement and the nature of the issues involved. Therm-Air Mfg. Co., Inc., B-195401.2, February 11, 1980, 80-1 CPD 119.

Since IBI is the fifth low bidder, even assuming that the bids of the first, second and third low bidders are rejected for the reasons set forth by IBI, there is another bidder (the fourth low bidder) to which award could be made under the invitation.

Thus, IBI would not be in line for the award if its protest is upheld and since no apparent need will arise to resolicit the procurement, the protester does not have the requisite direct and substantial interest with regard to the procurement.

In any event IBI's protest is without merit. We have repeatedly held that the submission of a below cost bid does not constitute a legal basis for precluding or disturbing a contract award. American Mutual Protective Bureau, B-200570, October 22, 1980, 80-2 CPD 311. The question of whether a bidder has the financial capacity to perform at its bid price or whether it should be awarded a contract in view of a prior default or because of the status of an individual representing the firm are matters relating to an agency's affirmative determination of a bidder's responsibility and our Office does not review protests which question such determinations except in circumstances not present here. Central Metal Products, 54 Comp. Gen. 66 (1974), 74-2 CPD 64.

The protest is dismissed.

Harry R. Van Cleve

Harry R. Van Cleve
Acting General Counsel